

**FLATHEAD COUNTY PLANNING BOARD WORKSHOP
MINUTES OF THE MEETING
MAY 10, 2006**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Charles Lapp, Gene Dziza, Kathy Robertson, Frank DeKort, Randy Toavs, and Kim Fleming. Gordon Cross, Don Hines and Jeff Larsen had excused absences. Kirsten Holland, Rebecca Shaw and BJ Grieve represented the Flathead County Planning & Zoning Office.

There were approximately 60 people in the audience.

**PUBLIC
REVIEW**

Gene Dziza reviewed the public hearing process.

**APPROVAL OF
MINUTES**

Robertson made a motion seconded by Fleming to approve the March 15, 2006 minutes.

On a roll call vote the motion passed unanimously.

**PUBLIC
COMMENT**

None.

**PRELIMINARY
PLAT/ASHLEY
LAKE SOUTH**

A request by Plum Creek Land Company for Preliminary Plat approval of Ashley Lake South Subdivision, a sixty (60) lot single-family residential subdivision on 646 acres. All lots in the subdivision are proposed to have individual water and septic systems. The property is located off Ashley Lake Road, south of Ashley Lake.

STAFF REPORT

Kirsten Holland reviewed Staff Report FPP 06-05 for the Board.

**BOARD
QUESTIONS**

Lapp asked if the parkland dedication had been satisfied.

Holland replied yes and said the applicant had placed a restriction on the face of the final plat stating no further subdivision of the lots or parkland is permitted.

APPLICANT

Peter Strelinger, of Plum Creek Land Company, introduced the team that had worked on this project. He stated they had learned and addressed the concerns of the public and Flathead County. The major issues he discussed were the parks, water quality, the lake, Bernard and Ashley Creek, and Ashley Lake Road. He addressed the recommendations and stated which of those they agree with and which ones they did not. He wanted to re-word condition#7, and stated if either Fire District wanted to annex the lots in the subdivision they would be agreeable. They agreed with condition #12, and stated they would make the annual \$1000 donation as long as there is an active loon ranger program on Ashley Lake. They concurred with the rest of

the conditions, but wanted to touch on a couple other conditions. He spoke about the unfortunate name for park 1 and said he believed it should be called a conservation area, as they intend to preserve this area. They had a lot of discussion with Fish, Wildlife & Parks, and also the concerned citizens that live on the lake. They agreed it would be a good idea to form a committee with representatives from a member of the friends of Ashley Lake, the Homeowners Association, Plum Creek Land Company, a Plum Creek Biologist, and a representative from Fish, Wildlife and Parks. The goal of the committee would be to create a plan for the conservation area, which would include who would ultimately own the conservation area, who would manage it, what the appropriate uses within the area are, who may use the area, conditions that should be placed on the deed that go with the property, and conditions that would go along with the final plat. It would also include a site plan for any proposed improvements and a signage plan for interpreting signage in the area. He feels it would be a great step they would agree with. Another issue is water quality in the lake and the creeks. They would agree to more stringent conditions in the covenants, conditions, and restrictions; such as penalties and fines and stricter conditions on what can and cannot be done in the 150-foot setback area. Another element of water quality protection is a proposal by the applicant to create a conservation plan for Bernard and Ashley creek; they would form a team to evaluate the utility of the riparian and stream enhancement. This team would consist of a Plum Creek hydrologist, wildlife biologist, a Montana Department of Fish, Wildlife & Parks biologist, and a representative of Ashley Lake Homeowners Association. The goal for things that would come out of that conservation plan would be planting of shrubs along the stream-banks of Bernard and/or Ashley Creek, removal of obstruction of fish migration, and a schedule of implementation of that plan. The third most important issue is Ashley Lake Road and dust control. They do not agree with staff's recommendation on condition #2. They would agree to pave 3000 additional feet, (6300 lineal feet total) as they feel that is an appropriate place for preserving water quality and it would give them an opportunity to do some roadside improvements to help protect runoff into the creeks; he feels it exceeds the requirements of Section 3.9 of the Flathead County Subdivision Regulations.

Fleming asked about paving and how far it would go.

Strelinger pointed it out on the map.

AGENCIES

None present.

PUBLIC COMMENT

Bob Windauer, 4657 Ashley Lake Road, Chairman of the Water Quality Committee, read his comments for the Board (attached).

Rob Driscoll, 4385 Ashley Lake Road, stated the sale of these lots would increase home ownership in the area by approximately 43% as

well as increase the population by an unknown number in a two to three year period. He feels there was not adequate time for members of the community, of Ashley Lake, to provide recommendations and to understand the scope and impact this project would have on the area. He said the ten year old neighborhood plan is no longer adequate and does not meet the needs of the property owners in the area. He said Strelinger is very open and receptive and wants to make this a quality development. He said there had been a direct violation of procedure by the Planning & Zoning Office, by not notifying a property owner who lives right next to where this development is proposed. He would like more time to have the applicant meet with the homeowners. He referenced the Park area and stated it doesn't seem fair in regards to impact on that area when you have twenty-one homes that fall inside that area and thirty-nine homes that fall outside that area. He had concerns about possible violations that had come to his attention. He wondered how the land use advisory committee could make an accurate recommendation without adequate documentation; he requested the detailed storm-water drainage reports several times and was told it was not available. He stated approval could be a violation without adequate information. He commented about the wetlands in that area and the fact that these need to be addressed. He said the impact to Ashley Lake Road would be unbelievable. He stated he was puzzled by the Environmental Assessment and said two months notice is not adequate time to review a project of this size. He requested a "no vote" at this time. He believes Strellinger has a good heart and wants to do the right thing.

Clell Hoffman, 4497 Ashley Lake Road, reinforced things already said. He commented about the park area and who would be able to use it and about the road as well. He stated this will be the third development on Ashley Lake Road in the past year and nobody has upgraded the road. He stated it is time to make the developers pay for the upgrades. He passed out pictures of the northern most part of the development and commented about the water table. He gave his opinion about two (2) members of the Land Use Advisory Committee having a conflict of interest and they should not have voted.

Jerry Smalley, 1142 Columbia Mountain Road, said nature and Plum Creek are affecting Ashley Lake. He hasn't seen any positive impacts on Ashley Lake from Plum Creek Timber or Plum Creek Land. He wanted the Planning Board to consider past developments by Plum Creek. He commented about the public use of the lake and how the homeowners will be affected. He liked the idea of Strellinger establishing committees but would like them to establish these committees prior to preliminary plat approval. He wanted the Board to table this proposal until all of the impacts can be addressed by Plum Creek and by the concerned citizens on Ashley Lake.

Doug Gamma, 5350 Ashley Lake Road, owns property that borders this proposal. He did not agree with several of the comments. He said this is a very organized and straightforward subdivision. He said the water issues need to be addressed and believes it is the most planned subdivision he has ever seen; with the 150-foot setbacks from the lake. He believes Plum Creek will do what they say they'll do. He commented about the road issue and commended the developer for willingly agreeing to pave more than their share. He also commented about the water and felt the developer will take care of it.

Tony Dawson, 149 Springdale Drive, agreed with other homeowners on Ashley Lake. He has owned property on Ashley Lake for about 14 years, and has been involved with the Loon protection committee all of that time. He spoke about the program and gave statistics on the population of these birds. He said Loons are very protective and sensitive. He is concerned about the protection of this species. He encouraged the Board to delay action and give the homeowners time to work out the issues with Plum Creek.

John King, 134 North Haven Drive, KJA owns over 400 acres at Ashley Lake. He appreciates the generosity of Plum Creek and commented that this should be a model subdivision. He feels the developer could donate more money to the local school. He stated he would like the Planning Board to delay action so all parties can work together and not create problems between the landowners on the lake and the largest landowner on the lake; Plum Creek.

Jim Ward, 4369 Ashley Lake Road, spoke about the future of Ashley Lake. He is opposed to this development and said it would set a precedent for future developments. He urged the Board to delay this matter until all the options are addressed. He spoke about Conservation Trust and stated you can never go back. He feels Ashley Lake is worth looking into every possible option. He would like to know what Plum Creek landowners have in mind for future development plans.

John Brenden, from Scobey, Montana, has owned property there since 1949. He is a Fish Wildlife & Parks commissioner for the state of Montana and commented there has been a lot of controversy during his tenure of fish and game with Plum Creek Land going into Conservation Easements. He commented the state has spent tens of millions of dollars with Plum Creek to develop conservation easements. He said there are enough concerns here that the Planning Board should delay this proposal so they can come to some agreements with the developer. He feels some of the concerns can be addressed in good faith in a few months to help alleviate some of the problems. He feels they have a right to develop their land but he would like them to take some time to make sure it's done the best possible way.

Ronald Buntemeier, Stoltze Land Company, stated the neighborhood committee reviewed this application twice and there are concerns about the wildlife area along the lake. He feels there is a great deal of concern about water quality but feels this Board does not need to address these issues; He stated DEQ will review those issues.

**STAFF
REBUTTAL**

Holland spoke about public notice and commented about the 11 things Fish, Wildlife, and Parks wanted the developer to adhere to. She felt those could be addressed by the Commissioners during their review process.

**APPLICANT
REBUTTAL**

Strellinger commented about the drainage proposal that Driscoll spoke about. He stated the reports take time for monitoring and such so the reports are not done. That's the process and they have no control over that time frame. Those will be a public document once they are submitted. He spoke about the CC&R's and hopes to have a detailed draft for the Commissioners. He stated that two months of review time is not accurate, as they started this process last October, with agency comments being requested. He commented about the people that stated they did not get notice, and said he knows that Flathead County did notice adjoining property owners. He apologized for not contacting all of the property owners. He also talked about the concerns with the wetland areas and stated those will be addressed by the Health Department. He spoke about the density and the covenants, and stated they are not in perpetuity, but can be changed; deed restrictions run with the land. He commented about the loons and assured members of the public that this will be a model project. He said the donation to the school is not a lot but it is not required. He stated he does not know what an appropriate fee would be but he is not opposed to it. As far as future plans, they don't have any at this time. They feel strongly this project has gone through a thorough review and putting it off would cost them a lot as far as marketing and construction.

Fleming asked about agency comments.

Strellinger stated they will form a committee and whatever that committee determines, Plum Creek will abide by. He spoke about alternatives. He said that in the proposal it states they will convene the Committee within 2 weeks of approval of the preliminary plat. He discussed the Committee and the restrictions for the particular piece of property Fleming was concerned about.

Toavs asked about the distance from the subdivision to the public access.

It is approximately six (6) miles.

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| MAIN MOTION | Fleming made a motion seconded by Robertson to adopt staff Report FPP-06-05 and recommended approval to the Board of County Commissioners. |
| BOARD DISCUSSION | Fleming commented she is concerned about the committee. She stated she would like to re-word Condition #11. |
| MOTION Condition #11 | Fleming made a motion seconded by DeKort to amend Condition #11 to state that the applicant will comply with the recommendations set forth in the 1-20-06 letter from the Montana Department of Fish, Wildlife & Parks, except for allowing boats with electric motors snow-mobile riding, parking on the side of the road, and agreed to by the applicant in 2-14-06 response. Plum Creek will form a citizen's advisory committee to make recommendations for use of the conservation area prior to submitting final plat. |
| ROLL CALL Condition #11 | On a roll call vote the motion passed unanimously. |
| MOTION Condition #2 | Fleming made a motion seconded by Robertson to amend Condition #2 to state that the applicant shall pave and build to county standards, Ashley Lake Road, from the east side of Lot 2 and west side of Lot 60. |
| ROLL CALL Condition #2 | On a roll call vote the motion passed unanimously. The Board and staff discussed at length the fire annexation. |
| MOTION Condition #7 | Fleming made a motion seconded by DeKort to strike Condition #7. |
| ROLL CALL Condition #7 | On a roll call vote the motion passed unanimously. |
| MOTION Condition #8 | Fleming made a motion seconded by Robertson to amend Condition #8 to add the words Flathead Fire Services Area and Montana Department of Natural Resources for the appropriate fire districts before annexation takes place. |
| ROLL CALL Condition #8 | On a roll call vote the motion passed unanimously. |
| BOARD DISCUSSION | Fleming stated she appreciates the 150-foot setback on each side of the streams in this area. She hopes they can work out something with the part that is on the water for something other than a park. She also stated they came in with a lot of sensitivity with regard to terrain and where the subdivision is located. |
| MOTION Condition #12 | Robertson made a motion seconded by DeKort to amend Condition #12 to state that it is as long as there is an active Loon Ranger Program on Ashley Lake. |

ROLL CALL
Condition #12

On a roll call vote the motion passed unanimously.

MOTION
Condition #22

Robertson made a motion seconded by Fleming to amend Condition #22 to state that 8.7 acres of parkland, excluding what is now dedicated as Park 1 and Park 2, shall be dedicated in perpetuity.

ROLL CALL
Condition #22

On a roll call vote the motion passed unanimously.

MOTION
Condition #23

Robertson made a motion seconded by Fleming to state that the 5.2-acre Park 2 shall be designated as drain field and solid waste pickup area.

ROLL CALL
Condition #23

On a roll call vote the motion passed unanimously.

BOARD
DISCUSSION

The Board and Staff discussed having a restroom area approved by the County Health Department.

Robertson commented about Lot 5 and the drain field being dangerously close to the preservation area. She also commented about the \$100 donation to the school being fair.

Lapp said the developers have worked with the community to the best of their ability. He spoke about the impact fees and the road upgrades. He also spoke about the school donation and how the developer is going above and beyond what they are required to do. He commended the developers.

ROLL CALL
Main Motion

On a roll call vote the motion passed unanimously.

PRELIMINARY
PLAT/HASKELL
PASS

A request by Plum Creek Land Company for Preliminary Plat approval of Haskell's Pass Subdivision, a seventy-eight (78) lot single-family residential subdivision on 851.2 acres. All lots in the subdivision are proposed to have individual water and septic systems. The property is located off Pleasant Valley Road and Lodgepole Drive, north of Little Bitterroot Lake.

STAFF REPORT

Kirsten Holland reviewed Staff Report FPP 06-06 for the Board

Fleming asked about paving.

Holland pointed out on the map where staff is requesting the developer pave.

Robertson asked about the density.

Holland explained how they came up with the density.

APPLICANT

Peter Strelinger, 999 3rd Ave, Seattle WA, spoke about the history of this property. He stated how they came up with the name for this subdivision; it's named after a man named Charles Haskell. He pointed out on the map where Mr. Haskell had selected a preferred site for the Great Northern Railway to the Pacific Northwest. He stated there is tremendous opportunity for Rails to Trails, as it offers unique opportunities for parkland and trails. He went through the conditions and stated which of those he agreed with. He agreed with Conditions #1-#4. Condition #5 discusses concerns whether or not they have a legal access for emergency access. He stated they feel strongly they do have that, and commented that the property owner will speak. He agreed with Condition #6 and #7. They agree to annex into the Marion Fire District and will work with them as stated in Condition #8. They also agree to begin discussions with Flathead County Parks and Recreation and with Fish, Wildlife & Parks for future parks as stated in Conditions #12 and #13. They agree with conditions #14-#21. He clarified that Lot 18 is 101.8 acres and will have 1 house.

Robertson commented she would like Lot 16 to be a Park.

Strellinger commented it might be a future fire station.

AGENCIES

Chief Brower, of the Marion Fire Department, said the developer is doing an excellent job in planning this subdivision. He spoke about annexation of the subdivision into the Fire District and said they will work with the developer. He also commented the water source would have to be a minimum of 2500 gallons per parcel. They will work together to comply with Regulations. He recommended the paving be extended to Griffin Creek Road and also paving the emergency access through the private landowner is an excellent idea. He had spoken with Peter quite a bit and feels they will do this right.

He spoke about Lot 16 being a future fire station. He is proud of his ISO rating and is trying to work out a deal to put a fire station there in the future; it is still in the planning phase.

PUBLIC COMMENT

Dave Bailey, Bitterroot Drive, said this might be the largest subdivision in Flathead County (Staff disagreed). He commented about the public services and the impacts this large of a subdivision would have in this area. He feels this does not comply with the Little Bitterroot Neighborhood Plan and stated Plum Creek helped write the plan. He feels they had a lot of interest in writing this plan and it was "give and take" in the plan. He feels the plan is very important and that's how the Board is to make their decision. He spoke about the plan itself and how the Board needs to adhere to it. He spoke about the parks and the impact to the lake; they wanted parkland dedicated. He is concerned about the impact this development will have. He feels the

homeowners were duped and also feels the Planning Board is being duped by not requiring open space. He asked the Board to take the time to consider requiring Plum Creek to clean up the timber when they clear it to make new roads.

Marvin Rosenberg, 1625 Bitterroot Lane, stated he is not familiar with this property but thought it was similar to his own. He commented about the water table and spoke about the community septic system. He feels there is no planning if they don't check the area during high water time; he feels this should be looked into before it goes too far. He spoke about the roads and how they have been torn up to make new roads to accommodate this subdivision. He commented about the County having to put guardrails along the road at Haskell's Pass and he can see more problems than good.

Anna Marie Bailey is disappointed with this process. Instead of having the whole plan all at once it is coming piecemeal and they never had to address some of the larger issues. She feels it would be honorable to have a bike path; the road is very dangerous. She is also concerned about the water issue.

Mayre Flowers, Citizens for a Better Flathead, felt the neighbors raised a bunch of issues with the last proposal, Ashley Lake South, the Board did not listen to. She commented about the water issues and the fact that the public or the Board did not have all the information required by the state. She said the Growth Policy and the Neighborhood Plans have to be consistent, and this subdivision needs to be consistent. She stated there are 22000 platted lots in the County and the Board needs to look at the impacts to the community. This application should be tabled until adequate studies for public review is available. She applauds the fact that Plum Creek has 150-foot setbacks from the water and she encourages public participation before they move forward.

Dain Salier, PO Box 9463, commented that he would like this area to remain as it is.

PC Musgrove, 221 Hemler Creek Drive, stated there needs to be more public access to the lake. He asked the Board if they had a copy of the Little Bitterroot Lake Neighborhood Plan. He has represented Plum Creek in the past and feels they go beyond what is required of them. He spoke about another subdivision they were involved in and how it is beautiful. He wished there were more developers like them.

Bill Odom, 405 Lodgepole, thinks the subdivision needs fire access and is happy to provide a key to Plum Creek for his gate to allow access. He is on the Little Bitterroot Lake Land Use Advisory Committee and recommended they approve this density. He feels the purpose of having minimum lot density requirements is to have a certain feel for

the neighborhood. This is a very good job in general and he is just as concerned with the environment as the rest of the neighbors. He would like to see this come back and see the density reach a 10-acre minimum.

**APPLICANT
REBUTTAL**

Strelinger spoke about complying with Little Bitterroot Lake zoning, and said they are not required to have access or parkland on the water. He addressed the concerns of the public and apologized they felt disappointed. He felt the public and the Advisory Committee had adequate time to review this proposal, as they went before the Committee twice. He addressed the issue of the storm water plan that is available to the public and also addressed the fire access concern. As for the density, he pointed out on the map the area that was added, not to get the density but to meet the zoning code.

Shawn Rowlan, Polson MT, is the sanitarian for this project. He addressed the water table and stated that's the reason they are going with a community drain field. Storm water concerns will be addressed and looked at from a development standpoint. As they build the roads to County standards, they will make sure the internal subdivision roads will be able to handle the storm water runoff. He pointed out on the map the area that does collect water and stated that is why the development is designed as it is. This will be reviewed thoroughly by the City-County Health Department and DEQ.

Dave DeGrandpre, 1662 Leon Rd Charlo, MT, addressed the density issue and spoke about how the Little Bitterroot Lake Development Code refers to an average density not a minimum lot size; terrain dictates where the homes will be. There is topographic variation and development is limited in these areas; they want to protect the view shed. He stated in regards to minimum lot size, they have come up with a list of eight (8) subdivisions within this zoning area where density averaging had been used and a clear precedent has been set for density.

**STAFF
REBUTTAL**

Holland stated the information people spoke about was included and submitted by the applicants as required.

MAIN MOTION

Fleming made a motion seconded by DeKort to adopt staff report FPP-06-06 and recommended approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

Fleming commented about the paving of the road and feels it is a compelling argument the other road is paved and to leave this one unpaved is not right.

**MOTION
Condition #2**

Fleming made a motion seconded by Robertson to amend Condition #2 to extend paving up to Griffin Creek Road.

ROLL CALL
Condition #2

On a roll call vote the motion passed unanimously.

MOTION
Condition #22

Fleming made a motion seconded by Robertson to add Condition #22 to require the applicant to receive approval for an approach permit from the Flathead County Road Department that will be constructed and approved prior to final plat approval.

ROLL CALL
Condition #22

On a roll call vote the motion passed unanimously.

MOTION
Condition #23

Fleming made a motion seconded by DeKort to add Condition #23 to state the applicant shall dedicate a 15-foot bicycle/pedestrian path easement abutting the southwest right-of-way of Pleasant Valley Road.

ROLL CALL
Condition #23

On a roll call vote the motion passed unanimously.

MOTION
Condition #16c

Fleming made a motion seconded by DeKort to amend Condition #16c to state that no lot shall be further subdivided.

ROLL CALL
Condition #16c

On a roll call vote the motion passed unanimously.

BOARD
DISCUSSION

The Board discussed the emergency access and whether or not they should add a condition to protect the County to make sure they can access the gate. They also discussed placing signs stating the cul-de-sac roads are not through roads.

MOTION
Condition #5

Fleming made a motion seconded by Robertson to amend Condition #5 and add a sentence that states the applicant shall post emergency access only, no through road signs, at the cul-de-sacs on Devils Elbow Road and Old Tote Road.

ROLL CALL
Condition #5

On a roll call vote the motion passed unanimously.

MOTION
Condition #15

Robertson made a motion seconded by Fleming to state that the central solid waste collection facility (Park 4) shall be designated as such and shall be completely bear-proofed as required by Fish, Wildlife & Parks.

ROLL CALL
Condition #15

On a roll call vote the motion passed unanimously.

MOTION
Condition #14

Robertson made a motion seconded by Fleming to state that 13.1 (less the 2 acres that was previously Park 4) acres of parkland be dedicated as open space in perpetuity.

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| ROLL CALL <i>Condition #14</i> | On a roll call vote the motion passed unanimously. |
| BOARD DISCUSSION | Lapp stated it would be an interesting place. This is a beautiful place for homes. |
| ROLL CALL <i>Main Motion</i> | On a roll call vote the motion passed 5-1 with Robertson dissenting. |
| PRELIMINARY PLAT/SUB 148 AMD LOT 4 | A request by William Norton for Preliminary Plat approval of Subdivision #148, Amended Lot 4, a two (2) lot single-family residential subdivision on 4.119 acres. All lots in the subdivision are proposed to have neighborhood water and individual septic systems. The property is located at 25 Whalebone Court. |
| STAFF REPORT | Rebecca Shaw reviewed staff report FPP-06-14 for the Board. |
| APPLICANT | Erica Wirtala, of Sands Surveying, represented the applicant. She agreed with the staff report and all the conditions; it meets the Master Plan and zoning. |
| AGENCIES | None present. |
| PUBLIC COMMENT | None. |
| APPLICANT REBUTTAL | None. |
| STAFF REBUTTAL | None. |
| MAIN MOTION | Robertson made a motion seconded by DeKort to adopt staff report FPP-06-14 and recommended approval to the Board of County Commissioners. |
| BOARD DISCUSSION | None. |
| ROLL CALL <i>Main Motion</i> | On a roll call vote the motion passed unanimously. |
| PRELIMINARY PLAT/STRONG ESTATES | A request by George and Shirley Isackson for Preliminary Plat approval of Strong Estates, Amended Plat of Lot 3, a two (2) lot single-family residential subdivision on 3.45 acres. All lots in the subdivision are proposed to have individual water and septic systems. The property is located at 1050 Strong Lane. |

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| STAFF REPORT | Rebecca Shaw reviewed staff report FPP-06-13 for the Board. |
| APPLICANT | Joe Kauffman, of Big Sky Surveying, represented the applicant. He stated the purpose of this subdivision is for the applicant's retirement. Lot 3 is for Shirley's son, the driveway will be moved, and it is a shared well. |
| AGENCIES | None present. |
| PUBLIC COMMENT | None. |
| APPLICANT REBUTTAL | None. |
| STAFF REBUTTAL | None. |
| MAIN MOTION | DeKort made a motion seconded by Lapp to adopt staff report FPP 06-14 and recommended approval to the Board of County Commissioners. |
| BOARD DISCUSSION | <p>Fleming said this proposal does a disservice to the neighbors, being this is a second subdivision, and wishes people would be more up front with their plans. She can't support it because of that fact.</p> <p>Dziza asked about doing a Family Transfer.</p> <p>Staff said a Family Transfer can't be done in an established subdivision.</p> |
| ROLL CALL <i>Main Motion</i> | On a roll call vote the motion passed 4-2 with Fleming and Toavs dissenting. |
| ZONE CHANGE REQUEST/NW DEVELOPMENT | A Zone Change request in the Evergreen and Vicinity Zoning District by NW Development Group, LLC, from SAG-10 (Suburban Agricultural, 10 acres) to I-1H (Light Industrial, Highway) and R-4 (Two-Family Limited Residential). The property is located at 2735 Highway 2 East, and contains 140.539 acres. |
| STAFF REPORT | Rebecca Shaw reviewed staff report FZC-06-04 for the Board. |
| APPLICANT | Erica Wirtala, of Sands Surveying, represented the applicant. She stated she would not have proceeded with this proposal if she felt during the pre-application meeting that it would be denied. She went through a PowerPoint presentation and commented on the issues and disagreements she had with the staff report. She pointed out on a map what portion of the property is included in this Zone Change application. She also pointed out the Two Rivers Master Plan Amendment and what this parcel of land is designated as in that |

amendment. She pointed out the Evergreen Sewer District, which is meeting May 24th, 2006 to decide what properties will be annexed into the District. This property is right on the boundary of the current district. She commented about boundaries being split by a zoning district. She referenced the two (2) subdivisions from earlier in the meeting that had lots split by zoning districts. She had examples of several lots split by 2 separate zoning designations. She showed a comment by Sean Conrad, Kalispell Planning Department, who stated the anticipation of the City, which is basically the Two Rivers Master Plan Amendment. She spoke about open space and how it is not a zoning designation. She also spoke about public services not being available yet but they are close to getting municipal services. She commented on how a Master Plan Amendment and a Neighborhood Plan are two separate documents. She doesn't agree this proposal should be based on the 1987 Master Plan. She reiterated the Two Rivers Master Plan Amendment is an adopted addendum to this plan, and this proposal should be based on that plan. She showed a map of the Kalispell Urban Growth Map. She pointed out how the city is anticipating municipal services to this area to provide service to the area. She reiterated they would not have come forward with this proposal had they not had the green light from their own attorney and the County attorney. MCA 76-2-201(2) states the Board of County Commissioners is authorized to adopt or revise zoning regulations that are consistent with the Master Plan. She stated the proposed R-4 could promote the general welfare of the public by building affordable housing. She referenced Village Greens and how this proposal will not cause overcrowding of land. She showed a will-serve letter and stated they will go before the Evergreen Water and Sewer Board on May 24th to present their petition for annexation into the Evergreen Sewer District and then go before the City Council to get their approval. She disagreed with the statement of how the R-4 zone will not preserve the value of the buildings in the surrounding area. She challenged any builder/developer to show where any buildings had lost value. She said this proposal will be right in the middle of everything with services, being close to schools, bike paths, and County roads. She went through the Findings of Fact and said she disagreed with three of them (2, 3, and 4). She asked the Board to reject the 3 findings of fact, and send this to the County Commissioners for a decision. She also stated the Board could table this proposal and have staff rewrite the staff report or reject the 3 findings of fact. She said just because the Two Rivers Master Plan Amendment was adopted, that doesn't guarantee zoning. She wants the Board to make an informed decision. The applicant paid \$4000 in application fees and wants to get their money's worth.

Mike Anders, 426 Street, is the applicant. He stated he grew up in this area and has spent a year personally planning what he wants for this property. He envisioned a Master Plan community to provide affordability. Costs are going up and in order to address affordability

there has to be smaller lots. He mentioned some of the oversights in the staff report. They redesigned the site and are working with the City to abide by their standards. They will have curbs, gutters, sidewalks and old-fashioned lighting. It will look very nice and they want to carry that theme into this area. He feels what he has planned for this property will benefit the community. Regarding municipal services, he feels they are providing that. He pointed out that several subdivisions have been approved without services. He reiterated Wirtala's point, that if they would have known staff was going to recommend denial to the Board of County Commissioners, they would not have moved forward with this proposal.

AGENCIES

None present.

PUBLIC COMMENT

Darlene Jump-Rauthe, 687 Scenic Drive, has family that owns land next to this property and is currently working with the applicant to get an easement across to this proposal; she has no objections to this proposal.

Sharon DeMeester, 415 Chestnut Drive, showed Wirtala a piece of paper that showed the Two Rivers litigations had been served; she read from the court paper. She spoke about how this is the original site of the Glacier Mall and she would like all the documentation from that proposal be submitted into the record. She read a letter from Robin Keller, 875 Rose Crossing, which spoke about the traffic and the septic systems.

Mayre Flowers, Citizens for a Better Flathead, handed out a packet to the Board. The packet included information from the Flathead County Zoning Regulations. She stated the County changed the designation for industrial use to include commercial uses and it opened the door for all types of development which include retail businesses, car washes, box stores, barber shops, etc. There is a list of 49 different uses permitted in this area. They have the opportunity to come forward with any of these and we don't have to guess what varying degrees of impact these could have on the roads and the aquifer. She strongly encouraged the Board to deny this application and said if it comes forward again it should be as a PUD. With this proposal, you don't know what the proposed use is because it has not been spelled out tonight. We do not know if there will be adequate services or what the impacts on traffic would be. She feels the appropriate thing for the Board to do, for the public and the developer, is to be more predictable by requiring them to come back and ask for a PUD with much more specificity. She also feels water quality is a huge issue in this area. The City is trying to rectify this by making sure the developments have adequate sewer and water. She commented that smaller lots create affordable housing but maybe larger lots are much more appropriate because of the water quality issue.

**APPLICANT
REBUTTAL**

Wirtala stated they may very well come in with a PUD but they have to have a zoning designation before that. To come in at that level now is premature. She referenced the slide that showed this area as an entryway into the community and said there would be restrictions because of that.

Anders addressed the concerns about the aquifer and stated they have gone the extra mile to protect the aquifer and designed this to City standards.

Robertson asked about the will-serve letter and if it was the same one the Board received in their packets.

Wirtala replied yes.

**STAFF
REBUTTAL**

Shaw commented that Kelsey Subdivision was not part of the application. At this time, the County doesn't have a plan for services in that area.

MAIN MOTION

Fleming made a motion seconded by Robertson recommending denial of staff report FZC-06-04 to the Board of County Commissioners.

**BOARD
DISCUSSION**

Fleming disagreed with the analysis of having a parcel split by two zoning districts not a parcel divided by two zoning designations. She commented about the Two Rivers Master Plan Amendment and stated the applicants said they would adhere to urban standards in regards to at least water, sewer, curbs, gutters and lighting. R-4 is fairly dense and if they don't get water and sewer because the two entities don't agree, it's premature to say we would allow a dense zone without it; Kalispell and Evergreen both have to agree. She spoke about the shallow aquifer and how day-to-day things contribute to depleting the aquifer. She is a little annoyed with Kalispell saying here's our Growth Policy and showing maps, but of course the County does not have to abide by that. The County is not obligated to comply and that leads to unfair decisions. They don't have any legal authority yet.

Robertson stated Kalispell would not annex anybody unless they wanted to be. They also said they are not going to provide sewer and water to an area that is not annexed; it's back and forth constantly. She commented when something is referenced on a screen it should be fact. The letter the Board received in their packet does not say will-serve but it did on the screen. As far as municipal services, it looks like it will get there eventually but it isn't there now and Kalispell and Evergreen do not work together.

Toavs agreed you don't need services to the property to request a zone change. He knows the sewer is going to get there, but in this situation, without Kalispell saying they will serve, he thinks there should be a letter stating they will serve the area. To approve this proposal now

knowing what those two entities do to each other would be premature.

Lapp commented on the split zoning. He stated the map Wirtala showed was in the Kalispell area. The County had that until we fixed it. He isn't concerned at all with that. As far as City planning goes, he likes the idea of working together so we can tell developers when they come in they need to start thinking about urban standards. He would like the whole project to come in all at once so the Board could get the whole picture; this process makes it a little more cumbersome. The planning office wants to see one proposal at a time but the Board wants to see more. He doesn't think you'll get the City to commit to a piece of SAG-10 land. They wouldn't know what the density might be and they couldn't anticipate it, so zoning needs to come before that. They will never get a letter from Kalispell without a plan. Other issues need to be addressed during the subdivision process. He sees this as the first step in the process of what they're doing.

Dziza agrees with Lapp as far as zoning and the lot lines. He doesn't think you can get a will-serve letter for SAG-10 land. He said staff seems to be okay with some of that industrial zoning but he doesn't understand that. He stated sewer is on the boundary of the property and he agreed with Charles that Kalispell would serve it. As far as the affordability issue, he doesn't know where else that could be. The developer wants to do nice things with affordable housing. He agreed the development can't go on, but a zone change can, and the area is appropriate. He came in not wanting to support this but after hearing the developer he changed his mind.

Toavs agrees with Dziza and stated he too had changed his mind. If the zone change goes, and the City says no, it won't happen anyway.

ROLL CALL
Main Motion

On a roll call vote the motion failed 3-3 with Lapp, Dziza and Toavs dissenting.

OLD BUSINESS

None.

NEW BUSINESS

Fleming said she looks up the names if there is an LLC on the application. She would like to request that staff have a name on the application form.

BJ asked what the Board members think about the Growth Policy being a zoning document. He had been hearing rumors that the public thinks the Growth policy will designate zoning and that they are hearing that from the Planning Board members.

The Board disagreed and said they know it is not a zoning document.

Lapp said he had commented about the next step, after the neighborhood plan updates, is zoning and maybe that confused the public.

ADJOURNMENT The meeting was adjourned at approximately 11:30 p.m. on a motion by Lapp seconded by Fleming. The next meeting will be held at 6:00 p.m. on May 17, 2006.

Gene Dziza, Vice President

Mary Sevier, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 6/21/06